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8 Attorneys for Plaintiff

9 UNITED STATES MAGISTRATE COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN FRANCISCO DIVISION

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 ROBERT WAYNE SMITH,

16 Defendant.

No. 3 06 70072 MEJ

ORDER AND STIPULATION FOR
CONTINUANCE FROM MARCH 6, 2006
THROUGH MARCH 20, 2006 AND
EXCLUDING TIME FROM THE SPEEDY
TRIAL ACT CALCULATION (18 U.S.C. §
3161(h)(8)(A)) AND WAIVING TIME
LIMITS UNDER RULE 5.1

17
18 With the agreement of the parties, and with the consent of the defendant, the Court enters
19 this order scheduling an arraignment or preliminary hearing date of March 20, 2006 at 9:30A.M.
20 before the duty magistrate judge, and documenting the defendant's waiver of the preliminary
21 hearing date under Federal Rule of Criminal Procedure 5.1 and the exclusion of time under the
22 Speedy Trial Act, 18 U.S.C. § 3161(b), from March 6, 2006 through March 20, 2006. The
23 parties agree, and the Court finds and holds, as follows:

24 1. The defendant has been released on a bond.

25 2. The United States recently provided defense counsel with discovery which defense
26 counsel will require adequate time to review.

27 3. The defendant agrees to an exclusion of time under the Speedy Trial Act, 18 U.S.C. §
28 3161(h)(8)(B)(iv) to provide reasonable time necessary for effective preparation, taking into

1 account the exercise of due diligence.

2 4. The defendant waives the time limits of Federal Rule of Criminal Procedure 5.1 for
3 preliminary hearing.

4 5. Counsel for the defense believes that postponing the preliminary hearing is in his
5 client's best interest, and that it is not in his client's interest for the United States to indict the
6 case during the normal 20-day timeline established in Rule 5.1.

7 6. After a hearing on this matter on March 6, 2006, the Court finds that, taking into
8 account the public interest in the prompt disposition of criminal cases, these grounds are good
9 cause for extending the time limits for a preliminary hearing under Federal Rule of Criminal
10 Procedure 5.1. Given these circumstances, the Court finds that the ends of justice served by
11 excluding the period from March 6, 2006 through March 20, 2006, outweigh the best interest of
12 the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(8)(A).

13 7. Accordingly, and with the consent of the defendant, the Court (1) sets a preliminary
14 hearing date before the duty magistrate judge on March 20, 2006, at 9:30A.M., and (2) orders
15 that the period from March 6, 2006 through March 20, 2006 be excluded from the time period for
16 preliminary hearings under Federal Rule of Criminal Procedure 5.1 and from Speedy Trial Act
17 calculations under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

18 IT IS SO STIPULATED:

19 DATED: March 21, 2006


_____/s/
DAVID FERMINO
Assistant Federal Public Defender

21 DATED: March 21, 2006

_____/s/
MICHELLE MORGAN-KELLY
Assistant United States Attorney

23 IT IS SO ORDERED.

24 DATED: 24 March 06


BERNARD ZIMMERMAN
United States Magistrate Judge